

## **DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS**

### **Adoption of Chapter 8 (commencing with Section 13000), and Amendment of Sections 9846, 10125, and 10564, Division 4, Title 9, California Code of Regulations**

#### **Initial Statement of Reasons**

#### **STATEMENT OF NECESSITY**

This regulatory action adopts Chapter 8 (commencing with Section 13000), and amends Sections 9846, 10125, and 10564 of Division 4, Title 9 of the California Code of Regulations by establishing requirements for certification of staff who provide counseling services in alcohol and other drug (AOD) programs. The certification will establish standards for education, experience, conduct, and complaint investigation for AOD counselors, improving the quality of the services provided. These regulations are necessary to protect the health, safety, and welfare of AOD participants, patients, and residents.

Alcohol and other drug counselors work very closely with program participants, patients, and residents, and provide many critical services including assessments, counseling, treatment planning, and case management. However, counselors are not currently required to be certified or to have a minimum amount of education or experience. Most treatment programs use or employ a mixture of AOD counselors who have some formal education or personal experience with alcoholism, drug addiction, and recovery.

Thirty-seven (37) other states currently require certification or licensing of their AOD counselors. California has been harshly criticized for the lack of qualifications required to be an AOD counselor.

In considering the need for these regulations the Department convened a workgroup comprised of many coalitions, associations, county administrators, and providers that work in various areas of the substance abuse field. This group represents a myriad of treatment programs including driving-under-the-influence programs, narcotic treatment programs, residential and outpatient recovery and treatment programs, etc. This group concurred that certification standards be developed for all staff who provide counseling services in AOD programs that are funded, licensed, or certified by the Department.

The number of people seeking AOD treatment, who also have co-occurring mental health disorders, has steadily increased in recent years. It is estimated that individuals with co-occurring disorders now comprise twenty to fifty percent (20-50%) of the addiction treatment population. These problems make it extremely difficult to maintain sobriety. The Department strongly believes that if counselors were better qualified, they would be better prepared to accurately identify these co-occurring disorders earlier, treat the AOD addiction, and make appropriate referrals to treat the co-occurring mental health disorder.

The Substance Abuse and Crime Prevention Act of 2000 (SACPA) has increased admissions into AOD treatment programs by over 30,000. These individuals are adults, convicted of nonviolent drug possession offenses, who have been referred to AOD treatment in lieu of incarceration. This population also has complex needs. Approximately forty percent (40%) of these individuals have less than a high school education, and 10% are also homeless.

Homelessness is a significant factor in the treatment of AOD problems and addiction. Estimates of the rates of AOD abuse among the homeless reach as high as fifty to seventy percent (50-70%). Research suggests that rates of AOD addiction and co-occurring mental illness among the homeless have significantly increased in recent years. Co-occurring AOD problems and mental health disorders among persons who are homeless is a problem that has long been recognized by providers, professionals, and advocates of treatment. Research indicates that it is becoming a more complex and pervasive problem. The multifaceted nature of homelessness, including AOD problems and mental health disorders, requires knowledge to effectively provide AOD treatment services and produce more successful outcomes.

These regulations require counselors to complete a nationally recognized curriculum of study that includes information about co-occurring disorders, treatment for non-violent offenders, homelessness and substance abuse. These regulations require certified AOD counselors to comply with a strict code of conduct, which will protect and enhance the health, safety, and welfare of AOD participants, patients, and residents by preventing verbal, psychological, physical, or sexual abuse. These regulations also provide a complaint investigation process to investigate and take corrective action following allegations of abuse.

The specific necessity for each regulatory change is described in the attached annotated text of regulatory changes, which is hereby incorporated by reference.

The regulations require registration within six (6) months of the effective date of the regulations and certification within five (5) years. Immediate certification was not required in order to prevent a workforce shortage, as few AOD counselors are certified at the present time. All times specified are arbitrary and the Department will consider changing them if it receives public comment requesting such a change.

### **FISCAL IMPACT STATEMENTS:**

Costs or Savings in Federal Funding to the State: None. No federal funding is involved.

Costs or Savings to Any State Agency: None in the current State Fiscal Year. Anticipated annual costs are estimated at \$324,729. Costs during the current fiscal year are expected

to be lower due to mid-year implementation and “ramping up” considerations. Current fiscal year costs will be absorbed within existing resources. ADP anticipates using federal funds for budget year 2004-05 and beyond, and may ultimately charge fees to support the program. Additional legal and program staff positions will be needed to handle increased workload of reviewing and investigating consumer complaints of violations of the code of conduct and of handling appeals of denial, temporary suspension, or revocation of certification. These additional functions are needed to protect the health, safety, and welfare of AOD clients.

Costs or Savings to Any Local Agency or School District: Counties that operate licensed or certified AOD programs may choose to pay higher salaries to certified AOD counselors. Any resulting costs may be recouped by increasing fees for AOD treatment.

Nondiscretionary Costs or Savings Imposed on Local Agencies: This regulatory action will not result in any nondiscretionary costs or savings to local agencies.

Local Mandate Determination: The Department has determined that this regulatory action will not impose any new mandates on school districts or other local governmental agencies or any mandates which must be reimbursed by the State pursuant to Part 7 (commencing with Section 17500), Division 4 of the Government Code.

Cost Impacts on Representative Private Persons or Businesses: Approximate cost of \$100-\$800 for individuals seeking certification as an AOD counselor. Costs may be recouped in higher salary.

Effect on Business: The Department has made an initial determination that this regulatory action will not have a significant statewide adverse economic impact directly affecting businesses because any cost resulting from these regulations may be recouped by increasing fees for providing AOD treatment. This regulatory action will not affect the ability of California businesses to compete with businesses in other states, as other states already require certification of AOD counselors. This regulatory action will not affect the creation or elimination of jobs, the creation of new businesses, the elimination of existing businesses, or the expansion of businesses currently doing business within the State of California.

Effect on Small Businesses: The proposed regulatory action will affect small businesses because many AOD programs are small businesses as defined in Government Code Section 11342.610. The Department anticipates that AOD programs may be able to recoup any resulting costs through increased fees for AOD treatment.

Effect on Housing Costs: This regulatory action will not affect housing costs in any way.

**LOCAL MANDATE DETERMINATION:**

The Department has determined that this proposed regulatory action will not impose any new mandates on school districts or other local governmental agencies or any mandates which must be reimbursed by the State pursuant to Part 7 (commencing with Section 17500), Division 4 of the Government Code.

**CONSIDERATION OF ALTERNATIVES:**

Pursuant to Section 11346.5(a)(12) of the Government Code, the Department must determine that no alternative would be more effective in carrying out the purpose for which this regulatory action was taken. The Department must also determine that no alternative would be as effective and less burdensome to affected private persons than the regulatory action taken. The Department will consider any alternatives presented during the public comment periods.

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